

REMARKS/ARGUMENTS

In the Final Action mailed October 29, 2007, **claims 21 and 23 were allowed, claims 1-9, 11 and 15 were rejected and claims 10, 12-14 and 16-18 were objected to.**

Applicant has **amended claims 1, 4, 13, and 15-18 and canceled claims 9, 20 and 22.**

Claims 10, 12-14 and 16-18 were objected to as being dependent upon a rejected base claim although containing allowable subject matter which would be allowed if the claims were written in independent form including all of the limitations of the base claim and any intervening claims. Believing that the base claims are allowable for the reasons set forth below, Applicant has retained these claims in their dependant form pending a determination as to the allowability of the base claims.

Claims 1-3 Are Rejected Under 35 U.S.C. 102(e) As Being Anticipated By Mueller (US 6,560,940)

Mueller '940 is, as its title — Two-Piece Clinched Plate Tension/Compression Bracket — indicates, is directed to a two-piece bracket adapted to resist forces in both tension and compression (see Abstract and Specification generally).

Mueller is not directed to straw bale construction in any way whatsoever, and only incidentally illustrates a foundation wall having a step (see Fig. 1).

Claim 1, herein, as currently amended includes two limitations not found in Mueller: (1) "a plurality of straw bales having a width stacked on said foundation wall providing a core for the wall" ; and (2) "a step having an upper

surface extending laterally and downwardly away from said foundation wall top surface” The step of the foundation in Mueller does not extend downwardly away from the foundation wall top surface, but is rather parallel to that foundation wall top surface.

MPEP §2131 provides: “To Anticipate a Claim, The Reference Must Teach Every Element Of The Claim.” A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. Of California*, 814 F.2d 628, 631, 2 USPQ@d 1051, 1053 (Fed. Cir, 1989)

Since Mueller does not describe either straw bales or a step that is downwardly directed, Applicant submits that claim 1 as amended overcomes the rejection based on Mueller.

Claim 3 being dependent on claim 1 is also allowable.

Claims 9, 11 And 15 Are Rejected Under 35 U.S.C. 103(a)
As Being Unpatentable Over Mueller (US 6,650,940)
In View Of Canada (US 6,061,986)

As established above, Mueller does not include two of the limitations of Applicant's claim 1 and Canada does not teach a foundation step having a top surface that extends laterally and downwardly away from the foundation top surface. It does not cure the deficiency in Mueller. Thus, claims 9 and 11 are allowable, along with claim 1.

Claim 15 recites:

“ . . . a wall bond beam disposed above and spaced apart from the stacked bales creating an enclosed airspace above the stacked bales and between said interior membrane and said exterior membrane at the top of the wall whereby moisture in said bales can rise into and accumulate in said

airspace . . .”

Figure 1 of Canada shows that the space between the top bale and the bond beam 60 is filled entirely with concrete 68. Thus, whereas Applicant teaches the use of an airspace, Canada, in the exact same location, teaches away from Applicant's invention by teaching that the space be filled with concrete. Whereas Applicant provides a space for moisture to escape from the bales, Canada fills that space, preventing such action.

Accordingly, Applicant submits that claim 15 as amended distinguishes over the prior art and is allowable.

Claims 4 And 5 Are Rejected Under 35 U.S.C. 103
As Being Unpatentable Over Mueller (US 6,650,940)
In View Of David Marr Illustration

Once again, the deficiencies of Mueller in anticipating claim 1 and not being cured by the David Marr illustration make the rejection on the basis of Mueller and David Marr insufficient to support a 103 rejection. Accordingly, claims 4 and 5, along with claim 1, are submitted as being allowable.

Claims 6 And 8 Are Rejected Under 35 U.S.C. 103
As Being Unpatentable Over Mueller (US 6,650,940)
And David Marr
And Further In View Of “Keeping Straw-Bale House Warm And Dry”

Once again, the deficiencies in the basic reference of Mueller are not cured by David Marr or the “Keeping Straw-Bale House Warm and Dry.” Thus, claims 6 and 8 are allowable, along with claim 1.

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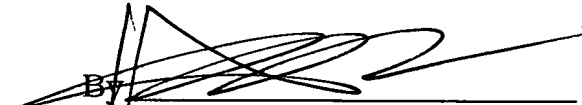
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Applicant respectfully submits that the amendments to the claims put them in form for allowance, thus, making it appropriate for the amendments and these remarks to be entered into the record and a Notice of Allowability issued.

Respectfully submitted,

Dated: November 29, 2007

A handwritten signature in black ink, appearing to read 'H. Michael Brucker', is written over a horizontal line.

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